



Legislation Details (With Text)

File #: 2022-0330
Type: Regular Calendar Item **Status:** Agenda Ready
File created: 3/18/2022 **In control:** Auditor-Controller-Treasurer-Tax Collector
On agenda: 4/5/2022 **Final action:**
Title: Cannabis Business Tax Ordinance (Chapter 35 of the Sonoma County Code) Amendment
Sponsors: Auditor-Controller-Treasurer-Tax Collector
Indexes:
Attachments: 1. Summary Report, 2. Attachment A - Proposed Ordinance, 3. Attachment B - Resolution, 4. Attachment C - Ordinance Redline

Date	Ver.	Action By	Action	Result
4/5/2022	1	Board of Supervisors	Approved as recommended	Pass

To: Board of Supervisors

Department or Agency Name(s): Auditor-Controller-Treasurer-Tax Collector

Staff Name and Phone Number: Brooke Koop, 707-565-1294

Vote Requirement: Majority

Supervisory District(s): Countywide

Title:

Cannabis Business Tax Ordinance (Chapter 35 of the Sonoma County Code) Amendment

Recommended Action:

- A) Consider an Ordinance amending Chapter 35 of the Sonoma County Code, the Cannabis Business Tax Ordinance, to reduce the tax rates for cannabis cultivation by 45% for two fiscal years, effective July 1, 2021 with a sunset date of June 30, 2023; and
- B) Adopt a Resolution introducing, reading the title of, and waiving further reading of a proposed ordinance amending the Chapter 35 of the Sonoma County Code.

Executive Summary:

On March 15, 2022, staff presented options to your Board regarding recommended changes to the County's Cannabis Business Tax Ordinance, codified in Sonoma County Code Chapter 35, stemming from an initial Board discussion and direction on January 4, 2022. At the conclusion of the March 15 Board discussion, the Board directed staff to amend the Cannabis Business Tax Ordinance to accomplish the following:

- Reduce the cultivation tax rates by 45% effective July 1, 2021 with a sunset on the reduction on June 30, 2023.
- Amend language for consistency and clarification, including clarifying language regarding operator audits and providing financial records, including gross receipts data, to County consultants.

Discussion:

The Cannabis Business Tax (Measure A) was passed by voters in the March 7, 2017 special election with 71% voter approval. Measure A laid out a framework for taxation that set maximum allowable rates for all operator types and granted authority to the County to, among other things, set lower rates, tax certain operator types,

and establish various tax administration policies. On December 13, 2016, the Board adopted Ordinance 6188 imposing a cannabis business tax on commercial cannabis businesses which established Chapter 35 of the Sonoma County Code. On June 13, 2017, the Board adopted Ordinance 6203, amending Chapter 35, setting cannabis business tax rates within the voter-approved maximum rates and establishing certain regulations. On August 28, 2018, the Board adopted Ordinance 6241, amending Chapter 35, to make administrative changes.

On March 15, 2022, the Board of Supervisors directed staff to amend the Cannabis Business Tax Ordinance (the "Ordinance") to reduce the cultivation tax rates by 45 percent effective July 1, 2021 and through June 30, 2023. The reduction in cultivation rates is intended to temporarily alleviate the tax burden in support of local cultivators. According to staff estimates, the Cannabis Tax Fund from which the county's Cannabis program is financed, has approximately \$3 million of available surplus. The surplus plus an assumption of \$1.67 million in adjusted level of taxes to be collected in 21/22 and 22/23 is expected to be sufficient to support operations during this rate reduction period. If no further action is taken on the Ordinance by the end of Fiscal Year (FY) 2022-23, the cultivation rate reduction will sunset on June 30, 2023, and the current cultivation rate will be restored, along with the annual Consumer Price Index increase to the tax rate. This restoration of the tax rate will not constitute an increase in the tax rate that would require voter approval. In addition to the rate reduction, the Ordinance amendments include administrative changes for consistency and clarity.

Below are the key proposed changes to the Ordinance, with a redlined version of the existing Ordinance attached (Attachment C).

- Added the definition of "Operator" to clarify who meets this criterion.
- Reduced the cultivation tax rates by 45% and no CPI adjustment for FY 2021-22 and FY 2022-23.
- Removed reference to "quarterly" installments since Outdoor cultivation is taxed in two installments.
- Changed the language regarding cultivation verifications, to clarify when these should be performed and when documentation should be provided to support any adjustment to the taxes due.
- Removed language regarding postmark to keep the practice in line with property tax collection procedures.
- Added provision for waiver of interest. This proposed language is in line with property tax collection procedures and would expand the authority of the Tax Collector to approve the waiver of interest under specific circumstances. The Tax Collector already has this authority granted but for penalties only.
- Added clarifying language regarding operator audits and providing financial records, including gross receipts data, to County consultants at the request of the County.
- Changed tax assessment notice language to clarify this section only applies to the Notice of Tax Assessment, if necessary per Section 35-25.
- Changed language of when an amount determined to be due by the Tax Collector is payable to clarify payment is due within 30 calendar days.
- Changed references of the Clerk of the Board to the Auditor-Controller-Treasurer-Tax Collector to provide efficiencies in the appeal process.

Strategic Plan:

N/A

Prior Board Actions:

01-04-2022 Cannabis Tax Structure Board Discussion and Direction to Staff

01-25-2022 Resolution Extending Due Date for all Cannabis Business Taxes from January 31, 2022 to April 30, 2022 (Resolution No. 22-0012)

03-15-2022 Cannabis Tax Structure Board Discussion and Direction to Staff

FISCAL SUMMARY

Expenditures	FY 21-22 Adopted	FY22-23 Projected	FY 23-24 Projected
Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures	\$0	\$0	
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other	-\$832,000	-\$832,000	
Use of Fund Balance	\$832,000	\$832,000	
Contingencies			
Total Sources	\$0	\$0	

Narrative Explanation of Fiscal Impacts:

Staff estimates Cannabis cultivation tax revenue will reduce by approximately \$832,000 annually from the currently budgeted \$2.5 million. The budgeted revenue loss is expected to be offset by the currently Cannabis Tax Fund surplus. Ongoing tax revenue for FY 23/24 and beyond will be developed as part of staff’s pros and cons of transitioning to Gross Receipts from square footage cultivation business tax assessment.

Staffing Impacts:

Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

Attachment A - Draft Cannabis Business Tax Ordinance

Attachment B - Resolution introducing, reading the title of, and waiving further reading of a proposed Cannabis Business Tax Ordinance

Attachment C - Redline version of existing Cannabis Business Tax Ordinance

Related Items “On File” with the Clerk of the Board:
None